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Delictual liability for school pranks?

Posted on [May 21, 2013](#) by [mhogg](#)

Scottish schoolkids can be a wild lot, at least at certain times of the year. So we discover from a new judgment of Lord Boyd in the Outer House of the Court of Session (see *Gillie v Scottish Borders Council* [2013] CSOH 76 – <http://www.scotcourts.gov.uk/opinions/2013CSOH76.html>). In his judgment in this personal injuries claim by Mrs Gillie, an erstwhile janitor at Galashiels Academy, Lord Boyd comments that:

“There is a long history, some may say tradition, of sixth form pupils playing pranks on their last day in school. The court heard evidence that this affected schools in the area of the defenders including Galashiels Academy. It may also occur in other parts of Scotland. The day is known as “prank day” or “muck up day” ... In the years before Mrs Gillie’s accident there was evidence that pranks included the throwing of a variety of food stuffs including eggs, spaghetti sauce, yogurt and flour at the outside windows, putting washing up liquid down toilets, placing cellophane on toilet seats and smearing black shoe polish on toilet seats, throwing water balloons, using supersoakers, moving lockers against doorways so that people could not get out, putting sardines and dirty nappies in lockers, placing fish in the library and setting off the fire alarm. It was also suggested that on one occasion a tyre had been thrown down a stairwell.”

Pretty wild stuff! But did the specific prank which had occurred in this instance – the smearing of Vaseline on a flight of stairs – render the local authority liable for injury sustained to Mrs Gillie when she slipped on the vaseline and fell down the stairs? No, says Lord Boyd.

The pursuer had alleged that the defenders were in breach of article 12(3) of the Workplace, Health and Safety at Work Regulations (Reg 1992/2004) which state:

“So far as is reasonably practicable, every floor in a workplace shall be kept free from obstructions and from any article or substance which may cause a person to slip, trip or fall.”

Was it reasonably practicable for the school to have kept the stairs free of Vaseline? No, says Lord Boyd, because

“the foreseeability of such an event occurring, as opposed to any other “prank” that day, viewed from immediately before the event was very low indeed. Against that the time and resources that would have been required to eliminate that risk over and above the measures that the defenders had already taken, was disproportionate to the risk. Accordingly in all the circumstances I am satisfied that it was not reasonably practicable for the defenders to ensure that the stair was kept free of the substance which the pursuer slipped on.”

That seems the right conclusion, so far as the impracticability of following every sixth form pupil around the school was concerned: the resources to do so were simply not available. Of course, it might be argued that the School should have taken prior measures to ensure that the playing of any pranks was eradicated. The evidence, however, was that the school had indeed attempted strenuously to do this: Lord Boyd narrates (at paras 23-24) various measures taken by the Head Teacher to attempt to prevent the playing of pranks. So, no failure in reasonable planning on the school’s part, it seems.

The judgment serves to show that there is only so much one can do to prevent pranks being played by schoolchildren. The real culprits in this case got off without detection. Lord Boyd commented: “Those who no doubt thought that

this was nothing more than harmless fun did not think through the consequences.” Perhaps they are now reflecting on this at their leisure.

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The moral of this tale appears to be: on the last day of the school year, Scottish schools can be a dangerous place for staff and pupils alike. This blogger takes note, and will be giving school premises a wide berth on that day.

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